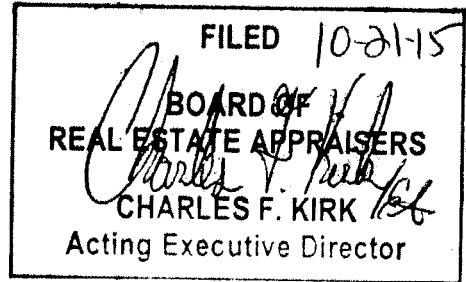


COPY

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
5th Floor
P.O. Box 45029
Newark, New Jersey



By: Steven N. Flanzman
Senior Deputy Attorney General
(973)-648-2707

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE REAL ESTATE
APPRAISER BOARD

Administrative Action

In the Matter of:

GARY WEINER

License # 42RA00064300

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**FINAL ORDER
OF DISCIPLINE**

This matter was opened before the New Jersey State Real Estate Appraisers Board (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law have been made:

FINDINGS OF FACT

General Findings

1. Gary Weiner ("respondent") is the holder of a current license to practice residential real estate appraising in the State

of New Jersey (License #42RA00064300). At all times since December 22, 2009, the mailing address and the address of record which respondent has provided to the Board has been P.O. Box 1201, Medford, New Jersey. Respondent last renewed his license to practice real estate appraising on-line on or about December 31, 2013, and then confirmed the above listed address of record and mailing address. Respondent additionally has provided the Board with an e-mail address of mrappraisal@comcast.net. Since December 31, 2013, respondent has not contacted the Board to advise of any changes to any of the above addresses. (See Certification of Charles F. Kirk, Executive Director of the Board, offered in support of the Provisional Order of Discipline, hereinafter "Kirk Certification," Exhibit A).

2. Review of Board records reveals that, on June 20, 2005, a Final Order of Discipline was entered by the Board, wherein respondent was reprimanded and assessed a civil penalty of \$1200 based on a finding that he failed to cooperate with an investigation of the Board pursuant to N.J.A.C. 13:45C-1.2, thus subjecting him to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h). See Kirk Certification, Exhibit B.

Raymond Coleman/Parker McCay Complaint

2. By letter dated September 28, 2012, a complaint was filed against respondent by the law offices of Raymond Coleman Heinhold Norman, L.L.P. and Parker McCay, P.A. The complaint

generally alleged that Mr. Weiner had improperly executed, and/or initiated, certain tax appeals filed before the Burlington County Tax Board by personally signing the names of homeowners in the section of the "Petition of Appeal" form which required a signature of the "petitioner" or the "attorney for petitioner" (hereinafter the "RCPM" complaint", see Kirk Certification, Exhibit C).¹

3. By letter dated August 2, 2013, the Board wrote to respondent at his address of record, forwarded him a complete copy of the RCPM complaint and asked that respondent submit a written response to the Board addressing the allegations within the RCPM complaint. The Board's letter was sent by both regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit D.

4. The Board sent a second request letter to respondent at his address of record dated October 2, 2013 by both regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed, unable to forward". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit E.

5. The Board sent a third and final request letter to respondent at his address of record dated March 6, 2014 by both

¹ Upon receipt of the RCPM complaint, the Board initially sought certain clarification from the complainant, which was provided in a supplemental letter to the Board dated July 9, 2013.

regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed, unable to forward". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit F.

6. On February 10, 2015, Emilio Aviles, Assistant to the Executive Director of the Board, forwarded an e-mail to respondent at mrappraisal@comcast.net, wherein he requested that respondent contact the Board office immediately regarding pending disciplinary complaints. As of February 24, 2015, the Board has received no reply, by e-mail, phone or otherwise, from respondent to said e-mail. See Kirk Certification, Exhibit K.

8. Respondent has failed to respond to any of the multiple letters and e-mails forwarded to him by the Board regarding the RCKP complaint, and has thus never provided any written response to the allegations made in that complaint.

Lawson Complaint

9. On or about February 6, 2014, a complaint against respondent was filed with the Board by Matt Lawson (on behalf of Nastasi's Furniture). The complaint generally alleged that respondent failed to prepare certain appraisals for tax appeal purposes after agreeing to prepare the appraisals, and after accepting a deposit of \$1500 (towards an agreed upon fee of \$2500). The complaint further alleged that respondent failed to return the deposit monies, even after representing that he would return the

payments (hereinafter the "Lawson Complaint," See Kirk Certification, Exhibit G).

10. By letter dated February 11, 2014, the Board wrote to respondent at his address of record, forwarded him a complete copy of the Lawson complaint and asked that respondent submit a written response to the Board addressing the allegations within the Lawson complaint. The Board's letter was sent by both regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit H.

11. The Board sent a second request letter to respondent at his address of record dated March 6, 2014, by both regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed, unable to forward". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit I.

12. The Board sent a third and final request letter to respondent at his address of record dated April 1, 2014 by both regular and certified mail. The letter sent by certified mail was returned to the Board marked "unclaimed, unable to forward". The letter sent by regular mail was not returned. See Kirk Certification, Exhibit J.

13. On February 10, 2015, Emilio Aviles, Assistant to the Executive Director of the Board, forwarded an e-mail to

respondent at mrappraisal@comcast.net, wherein he requested that respondent contact the Board office immediately regarding pending disciplinary complaints. As of February 25, 2015, the Board has received no reply, by e-mail, phone or otherwise, from respondent to said e-mail. See Kirk Certification, Exhibit K.

14. Respondent has failed to respond to any of the multiple letters and e-mails forwarded to him by the Board regarding the Lawson complaint, and has thus never provided any written response to the allegations made in that complaint.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's multiple written requests for responses to both the RCPM Complaint and the Lawson Complaint constitute repeated instances of the failure to cooperate with a Board investigation, in violation of N.J.A.C. 13:45C-1.2 and 1.3. The Board deems respondent's multiple failures to constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and thus concludes that grounds for the imposition of disciplinary action against respondent, to include ordering the suspension of respondent's license and the assessment of civil penalties, exist pursuant to both N.J.S.A. 45:1-21(e) and 45:1-21(h). As respondent was previously found, in a Final Order of Discipline filed June 20, 2005 to have engaged in professional misconduct by violating the Duty to Cooperate Regulation, the

findings herein constitute repeat violation(s) for the purposes of penalty assessment. See N.J.S.A. 45:1-25.

Supplemental Findings of Fact

On June 29, 2015, the above findings of fact and conclusions of law were set forth within a filed Provisional Order of Discipline ("POD"), which POD was mailed to respondent by regular and certified mail to the address of record which respondent maintained with the Board - P.O. Box 1201, Medford, New Jersey 08055. The POD included provisions that, upon entry of a Final Order of Discipline, respondent's license to practice real estate in the State of New Jersey would be suspended, with the suspension to remain in full force and effect until such time as respondent fully responded to the two pending complaints referenced in the POD, the Board reviewed the responses and determined that they were full and complete, and then entered a supplemental written Order reinstating respondent's license; that respondent was to cease and desist from practice as a real estate appraiser in New Jersey; and that respondent was to be assessed a civil penalty in the amount of \$5000. The POD provided that the proposed penalties would be subject to finalization at 5:00 p.m. by the Board on the 30th day following entry of the POD (namely, July 29, 2015), unless respondent were to request modification or dismissal of the findings of fact and conclusions of law in the POD by submitting a written request to the Board, which writing was to set forth all

reasons why the proposed findings of fact and conclusions of law should be modified or dismissed, and was to include all documents or written evidence supporting the request for modification or dismissal (or for consideration in mitigation of proposed penalty). Finally, the POD provided that, in the event respondent were to make a written request for modification or dismissal, the Board would defer finalization of the proposed sanctions in the POD pending review of respondent's submissions, and then determine whether to modify or dismiss the POD and/or conduct further hearings.

On July 29, 2015 at 4:50 p.m., respondent forwarded an e-mail, from the email address mrappraisal@gmail.com, to Emilio Aviles at the Board office, wherein he requested modification or dismissal of the proposed terms of the POD. Within that e-mail, respondent stated that he had just returned from Florida that day and picked up the POD at his P.O. Box. He asked that the Board reconsider the proposed suspension of his license, and suggested generally that he may not have received all communications from the Board between 2008 and 2013, for reasons that included his going through a divorce, attending to elderly parents, and being displaced from his house. In the e-mail, respondent suggested that he "will be prepared to answer any further questions that the board may have for me" and also stated that "I do apologize and want to have an opportunity to redeem myself and to continue my real estate

career." (a copy of Mr. Weiner's full e-mail response is attached hereto as Exhibit "A").

Following receipt of Mr. Weiner's e-mail, Mr. Aviles replied to the e-mail (using the very same e-mail address that respondent had used to contact the Board) at 4:31 P.M. on July 30, 2015 and advised Mr. Weiner that his written response would be placed before the Board for consideration at the Board's September 22, 2015 meeting. Mr. Aviles therein advised respondent that:

The proposed suspension of your license within paragraph 1 of the POD thus is not yet effective, and will not be effective unless the Board determines to include that provision in a Final Order of Discipline when it considers this matter on September 22. Nonetheless, you still have yet to provide full written responses to the Board addressing the two complaints that are referred to in the POD, to include the workfiles you maintained for each appraisal. I would urge you to submit those responses to the Board immediately.

A copy of Mr. Aviles' full e-mail is attached hereto as Exhibit "B").

Finally, just two minutes later (4:33 p.m. on July 30, 2015), Mr. Aviles forwarded a second e-mail to respondent, advising him that the Board had also received a third complaint against him from Steven Horn, alleging generally that Mr. Weiner had been engaged and paid in full to appraise a vacant parcel of land in Egg Harbor City, New Jersey, but thereafter had failed to prepare any appraisal report. Mr. Aviles asked that respondent also reply to Mr. Horn's complaint (A copy of Mr. Aviles' second e-mail, and the

letter included with the e-mail, is attached as Exhibit "C"; this matter will hereafter be referred to as the "Horn complaint").

Board records reflect that respondent thereafter failed to further communicate with the Board, and failed to provide any written response to any of the complaints which are pending against him. Respondent also did not appear at the Board's September 22, 2015 meeting.

The Board thus finds that, notwithstanding the fact that respondent clearly had notice of the Board's proposed actions, and a lengthy period of time to provide written responses to the complaints filed against him (specifically, fifty-four days from his receipt of Mr. Aviles' July 20, 2015 e-mails), respondent failed to further communicate with the Board or provide any response to either the RCPM or the Lawson complaints (the two complaints which were the predicate for the POD entered on June 29, 2015), or to the Horn complaint.

The Board concludes that there is no basis to modify or dismiss any of the proposed findings of fact, conclusions of law or penalties that were set forth in the POD. While Mr. Weiner did respond to the POD in the very last hour before the POD would have been subject to finalization, his litany of reasons why he may not have responded to the RCPM and/or Lawson complaints rings hollow given his subsequent failure to respond to either of those complaints and/or to the Horn complaint. We therefore herein adopt

all of the findings of fact and conclusions of law set forth in the POD, with the addition of the supplemental findings set forth above. Likewise, we adopt all conclusions of law set forth in the POD, with the additional conclusion of law that respondent has now violated the Duty to Cooperate Regulation, N.J.A.C. 13:45C-1.2 and 1.3, a third independent time by failing to timely respond to the Horn complaint. Finally, we adopt all of the proposed sanctions that were set forth in the POD, with the sole modification that we will require Mr. Weiner to respond to all three pending complaints against him (namely, the RCPM complaint, the Lawson complaint and the Horn complaint) before we will consider whether to reinstate his license.

ACCORDINGLY, IT IS on this 21st day of October, 2015,

ORDERED that:

1. The license of respondent Gary Weiner to practice real estate appraising in the State of New Jersey is suspended. The suspension Ordered herein shall remain in full force and effect until such time as respondent fully responds (by providing all information and records requested within all prior letters sent to him by the Board) to all three pending complaints against him (referenced above as the RCPM complaint, the Lawson complaint and the Horn complaint), the Board receives said responses and has an opportunity, at a scheduled Board meeting, to review the responses and determine whether the responses are in fact full and complete,

and, upon such review and determination that respondent has fully responded to the requests made, then enters a supplemental written Order reinstating respondent's license.

2. Respondent shall cease and desist from practicing as a real estate appraiser and shall not represent himself as a State licensed or certified real estate appraiser until such time as a supplemental written Order reinstating his license is entered by the Board. Any practice of real estate appraising in New Jersey prior to reinstatement shall constitute the unlicensed practice of real estate appraising, and shall be grounds upon which the Board may take independent disciplinary action against respondent.

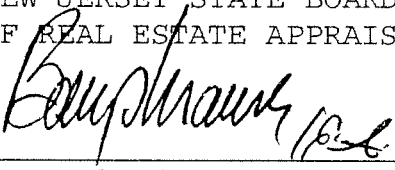
3. Respondent is assessed a civil penalty in the amount of \$5,000, which constitutes a penalty of \$2,500 for his repeated failures to have responded to multiple Board requests regarding the KPMC complaint and a second penalty of \$2,500 for his repeated failures to have responded to multiple Board requests regarding the Lawson complaint. Payment of the fine assessed herein shall be made by certified check, bank cashier check or money order payable to the "State of New Jersey," or by wire transfer, direct deposit or credit card payment delivered or mailed to Charles Kirk, Executive Director, State Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Any other form of payment attempted will be rejected and returned to the party making the payment. Payment shall be made no later than

fifteen days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A 45:1-24 and the Board may bring such other proceedings as authorized by law.

4. The Board expressly reserves the right to initiate independent disciplinary proceedings based upon any of the claims made in the RCPM Complaint, the Lawson Complaint, the Horn Complaint and/or based upon any new information or complaints the Board may receive regarding respondent's professional practice and/or conduct.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

By:

A handwritten signature in dark ink, appearing to read "Barry J. Krauser", is written over a horizontal line.

Barry J. Krauser
Board President

EXHIBIT

A

Emilio Aviles

From: Jersey Capital Appraisal Service <mrappraisal1@gmail.com>
Sent: Wednesday, July 29, 2015 4:50 PM
To: Emilio Aviles
Subject: Re: As per our conversation

I just return from Florida today and picked up the letter at my PO Box showing that and provisional order of discipline was filed against me. I wanted to formally appeal this matter and explain some of the reasons why I hope you'll reconsider. I have been separated and then divorced from my wife since 2008 and divorce finalized in 2013. During that time I found out my wife was withholding mail from me and going to my post office box and retrieving mail in an attempt to destroy my career. Also I have been going back-and-forth to Florida taking care of my elderly parents. My father has cancer and my mother has other illnesses. While I was away my brother-in-law and sister were picking up my mail at my PO Box. Subsequently they separated and they are getting divorced and I found out a lot of my mail didn't get to me especially any kind of certified letters. Also my email address changed since 2008 or nine and no longer was I able to receive email at that address. During this time I was also displaced from my house living with various family members and friends. I have also contacted Matt Lawson And worked out a mutually agreeable agreement with him and he said he will instruct his attorney to withdraw his complaint. My life is been turned upside down and I'm trying to hold the pieces together. I am going to consult an attorney and will be prepared to answer any further questions that the board may have for me. I do apologize and want to have an opportunity to redeem myself and to continue my real estate appraisal career. My phone number is 609-284-3770. Also please note I did send an email to Charles Kirk regarding a complaint filed against me back in February from this email address.

Sincerely
Gary Weiner

On Wednesday, July 29, 2015, Emilio Aviles <AvilesE@dca.lps.state.nj.us> wrote:

Mr. Weiner;

This is my email as per our conversation.

I can also be reached at (973) 504-6480.

CONFIDENTIALITY NOTICE The information contained in this communication from the Office of the New Jersey Attorney General is privileged and confidential and is intended for the sole use of the persons or entities who are the addressees. If you are not an intended recipient of this e-mail, the dissemination, distribution, copying or use of the information it contains is strictly prohibited. If you have received this communication in error, please immediately contact the Office of the Attorney General at (609) 292-4925 to arrange for the return of this information.

EXHIBIT

B

Emilio Aviles

From: Emilio Aviles
Sent: Thursday, July 30, 2015 4:31 PM
To: 'mrappraisal1@gmail.com'
Cc: Flanzman, Steven; Kirk, Charles
Subject: Provisional Order of Discipline Filed June 29, 2015

Good Afternoon Mr. Weiner:

The Board is in receipt of your response, via email, dated July 29, 2015 to the Provisional Order of Discipline Filed on June 29, 2015. As advised to you, via our conversation, your response will be presented to the Board for consideration at the September 22, 2015 Board Meeting.

As noted to you, as specified in paragraph 5 of the Provisional Order of Discipline, "this order shall be subject to finalization by the Board at 5:00 p.m. on the 30th day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by....setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed." Given that your e-mail response was received just before 5:00 P.M. on the 30th day following entry of the POD, the Board will consider your response to have been timely filed, and will consider that response as a request for modification or dismissal of the terms of the Provisional Order of Discipline at the September Board Meeting. As further specified in paragraphs 6 and 7 of the POD, the Board will then determine whether there is a basis to then enter a Final Order of Discipline, or whether there is a need for evidentiary hearings.

The proposed suspension of your license within paragraph 1 of the POD thus is not yet effective, and will not be effective unless the Board determines to include that provision in a Final Order of Discipline when it considers this matter on September 22. Nonetheless, you still have yet to provide full written responses to the Board addressing the two complaints that are referred to in the POD, to include the workfiles you maintained for each appraisal. I would urge you to submit those responses to the Board immediately.

Lastly, I am responding to your communication to me via e-mail, as that is the means of communication that you elected to respond to the Board. The Board requests that you provide an address of record immediately to the Board – other than a post office box address, as State Board of Real Estate Appraisers regulations 13:40A-7.11 requires that an "...Address of record may be a licensee or certificate holder's home, business or mailing address, but shall not be a post office box...".

If you should have any further questions, please do not hesitate to contact me.

Thank You.

EXHIBIT

C

Emilio Aviles

From: Emilio Aviles
Sent: Thursday, July 30, 2015 4:33 PM
To: 'mrappraisal1@gmail.com'
Cc: Flanzman, Steven; Kirk, Charles
Subject: Complaint Received with the Real Estate Appraisal Board
Attachments: Weiner, Gary compl by Horn, Steven 7-30-15.wpd

Good Afternoon Mr. Weiner;

The Board is also in receipt of a third complaint received from a Mr. Steven Horn in which he alleges that you were engaged and paid in full to appraise a vacant piece of land in Egg Harbor City, NJ, yet no report was ever received.

Please see attached letter and respond accordingly.



CHRIS CHRISTIE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Real Estate Appraisers Board
124 Halsey Street, 3rd Floor, Newark, NJ 07102



JOHN J. HOFFMAN
Acting Attorney General

KIM GUADAGNO
Lt. Governor

July 30, 2015

STEVE C. LEE
Acting Director

via email to: mrappraisal1@gmail.com

Gary Weiner
Jersey Capital Appraisal Service
119 Washington Street
Toms River, NJ 08753

Mailing Address:
P.O. Box 45032
Newark, NJ 07101
(973) 504-6480

Dear Mr. Weiner:

Re: Complaint received from consumer Steven Horn

The State Board of Real Estate Appraisers is in receipt of a complaint received from a Mr. Steven Horn in which he alleges that you were engaged and paid in full to appraise a vacant piece of land in Egg Harbor City, NJ, yet no report was ever received.

The "Board" hereby requests that you provide a written response to the complaint that has been submitted. Within that response, you should address the issues raised in the complaint. You should also provide the Board with **complete** information regarding the appraisal, to include a summary of any verbal communication you may have had with your client in this regard together with a written explanation of the procedures you used to acquire and develop the data in the appraisal, and an explanation of the factors you considered when developing a final estimate of value.

As previously noted, in addition to providing a written response, you are directed to provide a complete copy of the "workfile" (as that term is defined and further developed within the Record Keeping section of the Ethics Rule in the Uniform Standards of Professional Appraisal Practice) that you have maintained for each appraisal assignment.

Once this material has been preliminarily reviewed by the Board of Real Estate Appraisers, the Board may request that you appear before them to answer questions regarding this complaint. You will be notified as to the date and time of this meeting should the Board determine that further investigation is necessary.

Your response is expected by August 14, 2015. Thank you for your anticipated cooperation.

If you have any procedural questions, please do not hesitate to contact me at (973) 504-6480.

Very truly yours,
BOARD OF REAL ESTATE APPRAISERS


CHARLES F. KIRK

For the Board